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Federal Communications Commission

DA 98-324

DISPATCHED

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )

)  
Amendment of Section 73.202(b),  
Table of Allotments,  
FM Broadcast Stations.  
(Saint Florian, Alabama)

)  
) MM Docket No. 97-126  
) RM-9074  
)  
)

REPORT AND ORDER  
(Proceeding Terminated)

Adopted: February 18, 1998

Released: February 27, 1998

By the Chief, Allocations Branch:

1. The Commission considers herein the *Notice of Proposed Rule Making* ("Notice"), 12 FCC Rcd 4972 (1997), issued in response to a petition for rule making filed on behalf of Frederick A. Biddle dba Power Valley Enterprises ("petitioner"), proposing the allotment of FM Channel 274A to Saint Florian, Alabama, as that community's first local aural transmission service. Petitioner filed comments in response to the *Notice*. No other comments were received.

2. The Notice herein was issued based upon the petitioner's desire to provide a first local aural transmission service to Saint Florian (pop. 388),<sup>1</sup> located in Lauderdale County (population 79,661). However, in view of its small size, and in the absence of additional evidence to support the proposal, petitioner was requested to provide supplemental information to establish that Saint Florian is a *bona fide* community, as that term is defined for purposes of Section 307(b) of the Communications Act of 1934, as amended, for allotment objectives consistent with the guidelines set forth in the *Notice*.

3. In responsive comments petitioner states that Saint Florian has an elected mayor and a five member town council. Further, petitioner advises that Saint Florian has a town hall, a full time police force, a local volunteer fire department, and a planning commission. Petitioner also provided a letter from Mayor Joe Lamprecht to support its assertions. Petitioner also remarks that Saint Florian has ascertainable boundaries. In this regard, petitioner advises that the Department of Transportation ("DOT") of the State of Alabama is responsible for the maintenance of State Highway 47 which extends through the center of Saint Florian. Petitioner states that the DOT has placed signs along Highway 47 to indicate the entrance to the town of Saint Florian, and provided a photograph depicting a road sign signifying the "Saint Florian City Limits." Further, petitioner advises that a map delineating the exact borders of Saint

<sup>1</sup>Population figures reported herein were taken from the 1990 U.S. Census.

Florian was not available at the filing deadline herein. Therefore, petitioner provided a photograph of a map displayed at the Town Hall outlining the community boundaries of Saint Florian.

4. In further support of its proposal, petitioner states that at least twelve retail businesses are located in Saint Florian, and provided photographs of two businesses (a Shop Rite store and a gas station) that identify themselves with the community. Petitioner also asserts that the residents of Saint Florian can obtain such commodities as food, medical supplies, hardware, lumber, automotive and other essential daily items within the community. On the basis of the information presented, petitioner believes that Saint Florian is a viable community for allotment purposes.

5. On the basis of the information submitted in this proceeding, we conclude that Saint Florian is a community for allotment purposes. It is self-governing and contains an identifiable population grouping with business entities that associate themselves with the residents of Saint Florian. *See Garrison, Kentucky*, 6 FCC Rcd 1428 (1991). Therefore, we will allot Channel 274A to Saint Florian, as requested.

6. As indicated in the *Notice*, Channel 274A can be allotted to Saint Florian, Alabama, in conformity with the minimum distance separation requirements of Section 73.207(b)(1) of the Commission's Rules, provided the transmitter is sited at least 9.3 kilometers (5.8 miles) north of the community, utilizing coordinates 34-57-08 and 87-39-30.<sup>2</sup>

7. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective April 13, 1998, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED to include Saint Florian, Alabama, as follows:

<u>City</u>	<u>Channel No.</u>
Saint Florian, Alabama	274A

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. A filing window for Channel 274A at Saint Florian, Alabama, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

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<sup>2</sup>The site restriction is required to avoid a short spacing to the licensed site of Station WOWC(FM), Channel 273C, Jasper, Alabama, at coordinates 33-28-51 and 87-24-03.

10. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau. (202) 418-2180. Questions related to the application filing process should be addressed to the Audio Services Division, Mass Media Bureau. (202) 418-2700.

**FEDERAL COMMUNICATIONS COMMISSION**

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau